

## GLOSSARY:

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### **General Terms:**

**Felony:** an offense for which a sentence to a term of imprisonment in excess of one year may be imposed. Penal Law Section 10.00.

**Violent Felony (VFO):** an offense specifically designated as such by Section 70.02 of the Penal Law.

**Misdemeanor:** an offense, other than a traffic infraction, for which a sentence to a term of imprisonment in excess of fifteen days may be imposed, but for which a sentence to a term of imprisonment in excess of 364 days cannot be imposed. Penal Law Section 10.00.

**Violation:** an offense, other than a “traffic infraction,” for which a sentence to a term of imprisonment in excess of fifteen days cannot be imposed. Penal Law Section 10.00.

**Physical Injury:** impairment of physical condition or substantial pain. Penal Law Section 10.00.

**Serious Physical Injury:** physical injury which creates a substantial risk of death, or which causes death or serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ. Penal Law Section 10.00.

**Jail:** Any place operated by a county or the city of New York as a place for the confinement of persons duly committed to secure their attendance as witnesses in any criminal case, charged with crime and committed for trial or examination, awaiting the availability of a court, duly committed for any contempt or upon civil process, convicted of any offense and sentenced to imprisonment therein or awaiting transportation under sentence to imprisonment in a correctional facility, or pursuant to any other applicable provisions of law. Corrections Law Section 2.

**Prison:** A correctional facility operated by the New York State Department of Corrections and Community Supervision, where individuals who are sentenced in connection with felony convictions are housed during the term of their sentence. Corrections Law Section 2.

**Recidivism:** Recidivism is one of the most fundamental concepts in criminal justice. It refers to a person's relapse into criminal behavior, often after the person receives sanctions or undergoes intervention for a previous crime.

**LEAD:** Law Enforcement Assisted Diversion. A pre-arrest program which allows an individual to choose to connect with a caseworker and follow through with services instead of being arrested. This program is focused on low level, non-violent offenses involving individuals who have substance abuse, mental health, poverty related, or other challenges which contribute to their justice involvement.

## *Specific Offenses:*

### Assault:

First Degree: A person is guilty of assault in the first degree when: 1. With intent to cause serious physical injury to another person, he causes such injury to such person or to a third person by means of a deadly weapon or a dangerous instrument; or 2. With intent to disfigure another person seriously and permanently, or to destroy, amputate or disable permanently a member or organ of his body, he causes such injury to such person or to a third person; or 3. Under circumstances evincing a depraved indifference to human life, he recklessly engages in conduct which creates a grave risk of death to another person, and thereby causes serious physical injury to another person; or 4. In the course of and in furtherance of the commission or attempted commission of a felony or of immediate flight therefrom, he, or another participant if there be any, causes serious physical injury to a person other than one of the participants. Penal Law Section 120.10.

Second Degree: Most commonly, a person is guilty of assault in the second degree when: 1. With intent to cause serious physical injury to another person, he causes such injury to such person or to a third person; or 2. With intent to cause physical injury to another person, he causes such injury to such person or to a third person by means of a deadly weapon or a dangerous instrument. There are twenty other specifically defined subdivisions of Assault in the Second Degree. Penal Law Section 120.05.

Third Degree: A person is guilty of assault in the third degree when: 1. With intent to cause physical injury to another person, he causes such injury to such person or to a third person; or 2. He recklessly causes physical injury to another person; or 3. With criminal negligence, he causes physical injury to another person by means of a deadly weapon or a dangerous instrument. Penal Law Section 120.00.

Harassment in the Second Degree: A person is guilty of harassment in the second degree when, with intent to harass, annoy or alarm another person: 1. He or she strikes, shoves, kicks or otherwise subjects such other person to physical contact, or attempts or threatens to do the same; or 2. He or she follows a person in or about a public place or places; or 3. He or she engages in a course of conduct or repeatedly commits acts which alarm or seriously annoy such other person and which serve no legitimate purpose. Penal Law Section 240.26.

Criminal Mischief in the Fourth Degree: A person is guilty of criminal mischief in the fourth degree when, having no right to do so nor any reasonable ground to believe that he or she has such right, he or she: 1. Intentionally damages property of another person; or 2. Intentionally participates in the destruction of an abandoned building as defined in section one thousand nine hundred seventy-one-a of the real property actions and proceedings law; or 3. Recklessly damages property of another person in an amount exceeding two hundred fifty dollars; or 4. With intent to prevent a person from communicating a request for emergency assistance, intentionally disables or removes telephonic, TTY or similar communication sending equipment while that person: (a) is attempting to seek or is engaged in the process of seeking emergency assistance from police,

law enforcement, fire or emergency medical services personnel; or (b) is attempting to seek or is engaged in the process of seeking emergency assistance from another person or entity in order to protect himself, herself or a third person from imminent physical injury. The fact that the defendant has an ownership interest in such equipment shall not be a defense to a charge pursuant to this subdivision. Penal Law Section 145.00.

Criminal Mischief in the Third and Second Degrees involve the intentional damage to someone else's property which causes more than \$250.00 (Third Degree) or \$1,500.00 (Second Degree) of damage. Penal Law Sections 145.10 and 145.05.

Criminal Possession of a Controlled Substance: Knowingly and unlawfully possessing a narcotic drug or controlled substance as defined in the Public Health Law. There are multiple levels of this offense, based upon the quantity and type of controlled substance, as well as whether the individual possessed the substance with the intent to sell it. See, Article 220 of the Penal Law.

Criminal Possession of a Weapon: Knowing and unlawful possession of a weapon or dangerous instrument. There are multiple levels of this offense based upon the type of weapon and the circumstances of its use. Illegal firearms and explosives result in the most serious offenses. If the firearm is loaded or defaced, the charges may be more serious. See, Article 265 of the Penal Law.

Burglary: Unlawfully entering or remaining in a building, with the intent to commit a crime therein. There are three levels of burglary under the Penal Law, and charges are more serious as aggravating factors are present, such as entering a dwelling, using a weapon, or causing injury to the persons in the building. See, Article 140 of the Penal Law.

Disorderly Conduct: A person is guilty of disorderly conduct when, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof: 1. He engages in fighting or in violent, tumultuous or threatening behavior; or 2. He makes unreasonable noise; or 3. In a public place, he uses abusive or obscene language, or makes an obscene gesture; or 4. Without lawful authority, he disturbs any lawful assembly or meeting of persons; or 5. He obstructs vehicular or pedestrian traffic; or 6. He congregates with other persons in a public place and refuses to comply with a lawful order of the police to disperse; or 7. He creates a hazardous or physically offensive condition by any act which serves no legitimate purpose. Penal Law Section 240.20.

Trespass: A person is guilty of trespass when he knowingly enters or remains unlawfully in or upon premises. Penal Law Section 140.05.

Larceny: Larceny is stealing property. There are multiple degrees of seriousness based on the value of the property stolen or based upon stealing specific items. See, Penal Law Article 155.

**Criminal Contempt:** Most commonly, criminal contempt is defined as the violation of a lawful court order. The vast majority of criminal contempt charges relate to the violation of an Order of Protection. See, Penal Law Article 215.

**Menacing:** A person is guilty of menacing when he or she intentionally places or attempts to place another person in fear of death, imminent serious physical injury or physical injury. There are levels of seriousness based upon the use of a weapon or what appears to be a firearm when threatening another person, or by menacing a police officer. See, Penal Law Article 120.